

**CITY OF CENTRAL, COLORADO
ORDINANCE 14-07**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CENTRAL, COLORADO AMENDING CERTAIN PROVISIONS OF
ARTICLE IX OF CHAPTER 6 AND ARTICLE I OF CHAPTER 16 OF
THE CENTRAL CITY MUNICIPAL CODE**

WHEREAS, the City of Central is a home rule municipality that is authorized, pursuant to its Home Rule Charter, the Colorado Constitution, and state law, to adopt ordinances in furtherance of the health, safety and welfare of the City's inhabitants; and

WHEREAS, in November 2000, the voters of the State of Colorado approved Amendment 20, subsequently codified as Section 14 of Article XVIII of the Colorado Constitution ("Amendment 20"), which created a limited exception and affirmative defense to state criminal liability for the specific use of medical marijuana by certain persons in Colorado; and

WHEREAS, by and through Ordinance 12-16 the City adopted regulations requiring the licensing of medical marijuana establishments, which regulations are codified in Article VII of Chapter 6 of the Municipal Code; and

WHEREAS, neither Amendment 20 nor its implementing state statutes or administrative regulations, including the Colorado Medical Marijuana Code, authorize or contemplate any form of business or commerce relating to the consumption of marijuana or marijuana products; and

WHEREAS, on November 6, 2012, the voters of the State of Colorado approved Amendment 64, subsequently codified as Section 16 of Article XVIII of the Colorado Constitution ("Amendment 64"), which authorizes the personal use and possession of recreational marijuana for persons over 21 years of age and specifies the lawful operation of marijuana-related facilities; and

WHEREAS, by and through Ordinance 13-09 the City adopted regulations requiring the licensing of retail marijuana stores, which regulations are codified in Article IX of Chapter 6 of the Municipal Code; and

WHEREAS, the City prohibits the operation of marijuana cultivation facilities, marijuana product manufacturing facilities or marijuana testing facilities within the boundaries of the City; and

WHEREAS, neither Amendment 64 nor its implementing state statutes or administrative regulations, including the Colorado Retail Marijuana Code, authorize or contemplate any other form of business or commerce relating to the production, sale, or consumption of marijuana or marijuana products; and

WHEREAS, the City desires expressly to ban any other form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana and marijuana products other than properly licensed medical marijuana

establishments or retail marijuana stores, as those terms are defined in the Municipal Code, within the boundaries of the City; and

WHEREAS, the Planning and Zoning Commission, having considered this Ordinance at a duly noticed public meeting, has recommended that City Council consider this ordinance for adoption; and

WHEREAS, the City Council finds that this Ordinance will further the health, safety and general welfare of the City's inhabitants; and

WHEREAS, City Council conducted a public hearing, with proper notice provided, to consider adoption of this Ordinance as required by law.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO THAT:

Section 1. Section 6-9-10 of Article IX of Chapter 6, entitled "Findings and legislative intent," is hereby repealed and re-enacted in its entirety to read as follows:

Sec. 6-9-10. Findings and legislative intent.

Section 16 of Article XVIII of the Colorado Constitution and Article 43.4 of Title 12, C.R.S. vest the City Council with the option to determine whether to license Retail Marijuana Establishments within the boundaries of the City. The purpose of this Article is to authorize such licensing only for retail marijuana stores, to regulate such retail marijuana stores in the City pursuant to the requirements of this Article, and to designate a local licensing authority to issue and process applications submitted for a license within the City. The operation of marijuana cultivation facilities, marijuana product manufacturing facilities and marijuana testing facilities is prohibited within City boundaries. In addition, all other forms of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution, or consumption of marijuana or marijuana products, whether or not conducted for profit, shall be strictly prohibited within the City's boundaries. This Article is intended to exercise the authority granted by Section 16 of Article XVIII of the Colorado Constitution and the Colorado Retail Marijuana Code for the City to adopt licensing requirements that are supplemental to and/or stricter than, the requirements set forth in State law. The purpose of this Article is to license and regulate retail marijuana stores in the interest of public health, safety and general welfare of the community.

Section 2. Section 6-9-30(a) of Article IX of Chapter 6 of the Central City Municipal Code, entitled "Definitions," is hereby amended to include the following definition:

Marijuana products shall have the same meaning as set forth in Amendment 64, or as may be more fully defined in the Colorado Retail Marijuana Code.

Section 3. Section 6-9-40 of Article IX of Chapter 6 of the Central City Municipal Code, entitled "Marijuana cultivation facilities, marijuana product manufacturing facilities, and marijuana testing facilities," is hereby amended to read as follows in its entirety:

Sec. 6-9-40. Marijuana cultivation facilities, marijuana product manufacturing facilities, and marijuana testing facilities prohibited; other unlawful acts.

- (a) The following uses shall be prohibited within the boundaries of the City:
 - (1) Marijuana cultivation facilities;
 - (2) Marijuana product manufacturing facilities; and
 - (3) Marijuana testing facilities.
- (b) No person shall operate a marijuana cultivation facility, marijuana product manufacturing facility or marijuana testing facility within the corporate boundaries of the City, as the same may be adjusted from time to time through annexation or otherwise.
- (c) It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana or marijuana products other than: (1) medical marijuana establishments properly licensed pursuant to Article VII of Chapter 6 of this Code; or (2) retail marijuana stores properly licensed pursuant to this Article IX. All other forms of business or commerce, whether or not conducted for profit, involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana or marijuana products are strictly prohibited within the corporate boundaries of the City.

Section 4. The definition of *Club* as set forth in Section 16-1-130 of Article I of Chapter 16 of the Central City Municipal Code is hereby repealed and reenacted to read as follows:

Club means any membership organization, including a lodge catering exclusively to members and their guests, whose facilities are limited to meeting, eating and recreational uses, and whose activities are not conducted principally for monetary gain. Club does not mean or include any membership organization that is prohibited by Section 6-9-40(c) of this Code.

Section 5. **Codification Amendments.** The codifier of Central City's Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Central City Municipal Code.

Section 6. **Severability.** Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 7. **Repeal.** Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive

any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

Section 8. **Safety Clause.** The City Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the City of Central, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 9. **Effective Date.** This Ordinance shall become effective immediately following publication, public hearing and the approval of City Council following second reading in accordance with Sections 5.9 and 5.10 of the City Charter.

INTRODUCED AND READ by title only on first reading at the regular meeting of the City Council of the City of Central on the ____ day of _____, 2014, at Central City, Colorado.

CITY OF CENTRAL, COLORADO

Ronald E. Engels, Mayor

Approved as to form:

—
Marcus McAskin, City Attorney

ATTEST:

Reba Bechtel, City Clerk

PASSED AND ADOPTED on second reading, at the regular meeting of the City Council of the City of Central on the ____ day of _____, 2014.

CITY OF CENTRAL, COLORADO

Ronald E. Engels, Mayor

ATTEST:

Reba Bechtel, City Clerk

POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY in the Weekly Register Call newspaper on _____, 2014.

POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING] in the Weekly Register Call newspaper on _____, 2014.

CITY OF CENTRAL, COLORADO

Ronald E. Engels, Mayor

ATTEST:

Reba Bechtel City Clerk